



## PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

\$170

In Re the Application of:

MORTZ, Margaret S.

Serial No.: 10/700,319

Filed Date: November 3, 2003

Confirmation No.: 5097

Atty. Docket No.: 41942-05546

For: PULSE OXIMETRY SpO2  
DETERMINATIONCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to Applicant's duty of disclosure under 37 CFR § 1.56 and 37 CFR §§ 1.97-1.98, Applicant hereby submits the enclosed PTO Form 1449, although Applicant does not admit that any of such documents, alone or in any combination, is considered to be material to patentability as defined in 37 CFR § 1.56(b). Moreover, the inclusion of these documents is not to be construed as an admission by Applicant that each such document is prior art as to the above-identified application. Pursuant to the Official Gazette Notice of August 5, 2003, copies of any U.S. Patents or published U.S. Patent Applications are not being submitted herewith. Copies of any foreign patent and non-patent documents are submitted herewith.

Applicant has enclosed a check in the amount of \$180.00 to pay the fee set forth in 37 CFR 1.17(p). Please charge any additional fees required, or credit any overpayment, to Deposit Account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN &amp; BREYFOGLE LLP

By: Kent A. Fischmann

Kent A. Fischmann, Esq.

Attorney Registration No. 35,511

3151 South Vaughn Way, Suite 411

Aurora, Colorado 80014

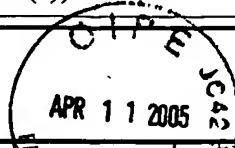
(720)562-5501

Date: April 8, 2005

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
**(Under 37 CFR 1.97(b) or 1.97(c))**

Docket No.  
41942-05546

In Re Application Of: **MORTZ, Margaret S.**



Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/700,319	November 3, 2003	WINAKUR, Eric Frank	25231	3736	5097

Title:

**PULSE OXIMETRY SpO2 DETERMINATION**

Address to:

**Commissioner for Patents**  
P.O. Box 1450  
Alexandria, VA 22313-1450

**37 CFR 1.97(b)**

1.  The Information Disclosure Statement submitted herewith is being filed within three months of the filing of a national application other than a continued prosecution application under 37 CFR 1.53(d); within three months of the date of entry of the national stage as set forth in 37 CFR 1.491 in an international application; before the mailing of a first Office Action on the merits, or before the mailing of a first Office Action after the filing of a request for continued examination under 37 CFR 1.114.

**37 CFR 1.97(c)**

2.  The Information Disclosure Statement submitted herewith is being filed after the period specified in 37 CFR 1.97(b), provided that the Information Disclosure Statement is filed before the mailing date of a Final Action under 37 CFR 1.113, a Notice of Allowance under 37 CFR 1.311, or an Action that otherwise closes prosecution in the application, and is accompanied by one of:

- the statement specified in 37 CFR 1.97(e);

**OR**

- the fee set forth in 37 CFR 1.17(p).

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
**(Under 37 CFR 1.97(b) or 1.97(c))**

Docket No.  
 41942-05546

In Re Application: MORTZ, Margaret S.



Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/700,319	November 3, 2003	WINAKUR, Eric Frank	25231	3736	5097

Title:

**PULSE OXIMETRY SpO2 DETERMINATION**

**Payment of Fee**

(Only complete if Applicant elects to pay the fee set forth in 37 CFR 1.17(p))

- A check in the amount of \$180.00 is attached.
- The Director is hereby authorized to charge and credit Deposit Account No. 50-1419 as described below.
  - Charge the amount of
  - Credit any overpayment.
  - Charge any additional fee required.
- Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

**Certificate of Transmission by Facsimile\***

I certify that this document and authorization to charge deposit account is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No.

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Typed or Printed Name of Person Signing Certificate

**Certificate of Mailing by First Class Mail**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

\_\_\_\_\_  
 April 8, 2005

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
*Bobbye D. Simon*  
 Signature of Person Mailing Correspondence

\_\_\_\_\_  
 Bobbye D. Simon

\_\_\_\_\_  
 Typed or Printed Name of Person Mailing Certificate

\*This certificate may only be used if paying by deposit account.

*Kent A. Fischmann*  
 Signature

Dated: April 8, 2005

Kent A. Fischmann, Esq.

Registration No. 35,511

MARSH FISCHMANN & BREYFOGLE LLP

3151 South Vaughn Way, Suite 411

Aurora, Colorado 80014

(720)562-5501

CC:

O I P  
NFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

APR 11 2005

ATTY DOCKET NO.  
41942-05546

SERIAL NO.  
10/700,319

FILING

November 3, 2003

GROUP

3736

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
a.	4,167,331	09/1979	Nielsen	128	633	
b.	4,266,554	05/1981	Hamaguri	128	633	
c.	4,586,513	05/1986	Hamaguri et al	128	633	
d.	4,623,248	11/1986	Sperinde	356	41	
e.	4,700708	10/1987	New, Jr., et al.	128	633	
f.	4,714,080	12/1987	Edgar, Jr., et al.	128	633	
g.	4,714,341	12/1987	Hamaguri, et al.	128	633	
h.	4,784,150	11/1988	Vorhies, et al.	128	664	
i.	4,796,636	01/1989	Branstetter, et al.	128	633	
j.	4,805,623	02/1989	Jobsis	128	633	
k.	4,807,631	02/1989	Hersh, et al	128	633	

FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**INFORMATION DISCLOSURE CITATION**  
*(Use several sheets if necessary)*

ATTY DOCKET NO.  
**41942-05546**

SERIAL NO.  
**10/700,319**

FILING  
**November 3, 2003** GROUP  
**3736**

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
l.	<b>4,819,752</b>	04/1989	Zelin	128	633	
m.	<b>4,822,568</b>	04/1989	Tomita	128	691	
n.	<b>4,824,242</b>	04/1989	Frick, et al.	128	633	
o.	<b>4,869,253</b>	09/1989	Craig, Jr., et al.	128	633	
p.	<b>4,869,254</b>	09/1989	Stone, et al.	128	633	
q.	<b>4,883,353</b>	11/1989	Hausman, et al.	600	323	
r.	<b>4,928,692</b>	05/1990	Goodman, et al.	128	633	
s.	<b>4,948,824</b>	08/1990	Lehman	128	633	
t.	<b>5,028,787</b>	07/1991	Rosenthal, et al.	128	633	
u.	<b>5,048,524</b>	09/1991	Bailey	128	634	
v.	<b>5,119,815</b>	06/1992	Chance	128	664	

**FOREIGN PATENT DOCUMENTS**

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO

**OTHER DOCUMENTS** *(Including Author, Title, Date, Pertinent Pages, Etc.)*


EXAMINER

DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**INFORMATION DISCLOSURE CITATION**  
*(Use several sheets if necessary)*

ATTY DOCKET NO.  
**41942-05546**

SERIAL NO.  
**10/700,319**

FILING  
**November 3, 2003** GROUP  
**3736**

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
w.	<b>5,219,400</b>	<b>06/1993</b>	<b>Jacot, et al.</b>	<b>128</b>	<b>633</b>	
x.	<b>5,259,381</b>	<b>11/1993</b>	<b>Cheung, et al.</b>	<b>128</b>	<b>633</b>	
y.	<b>5,351,685</b>	<b>10/1994</b>	<b>Potratz</b>	<b>128</b>	<b>633</b>	
z.	<b>5,379,238</b>	<b>01/1995</b>	<b>Stark</b>	<b>128</b>	<b>633</b>	
aa.	<b>5,503,148</b>	<b>04/1996</b>	<b>Pologe, et al</b>	<b>128</b>	<b>633</b>	
bb.	<b>5,934,277</b>	<b>08/1999</b>	<b>Mortz</b>	<b>128</b>	<b>633</b>	
cc.	<b>6,385,471</b>	<b>05/2002</b>	<b>Mortz</b>	<b>600</b>	<b>323</b>	
dd.	<b>6,714,803</b>	<b>03/2004</b>	<b>Mortz</b>	<b>600</b>	<b>323</b>	
ee.	<b>6,157,850</b>	<b>12/2000</b>	<b>Diab, et al.</b>	<b>600</b>	<b>323</b>	
ff.	<b>6,263,222</b>	<b>07/2001</b>	<b>Diab, et al.</b>	<b>600</b>	<b>310</b>	
gg.	<b>4,911,167</b>	<b>03/1990</b>	<b>Corenman et al.</b>	<b>128</b>	<b>633</b>	

**FOREIGN PATENT DOCUMENTS**

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO

**OTHER DOCUMENTS** *(Including Author, Title, Date, Pertinent Pages, Etc.)*


**EXAMINER** **DATE CONSIDERED**

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.